

CHAP. 34. rant to the sheriff of either of said counties, commanding him to summon twenty disinterested persons qualified to act as jurors in the Circuit courts of Baltimore or Howard counties as the case may be, to meet upon the land, and after four of the jurors so summoned are stricken off the panel by the president of said company or his agent, and four others by the person or persons interested in said land or his or her agent, or in the absence or refusal to strike off such persons or their agents, four to be stricken off by the said sheriff, the sheriff shall qualify the twelve remaining jurors, either by oath or affirmation as the case may be, justly, truly and impartially to value the damages which may be sustained by the owner or owners of said land or materials required by said company, and the said jury in estimating the damages aforesaid supposed to be sustained by the owner or owners of the land required for the construction of said road, shall take into the estimate the benefit resulting to said owner or owners, but only in the extinguishment of the claim for damages, and the said jury shall reduce their verdict to writing in the shape of an inquisition and sign and seal the same, and it shall then be retained by the sheriff and jury and returned by the sheriff to the clerk of the Circuit court of Baltimore or Howard counties as the case may be, and unless good and sufficient cause shall be shown against the said inquisition it shall be affirmed by the said court at the term next succeeding the return of said inquisition, but if the said inquisition should be set aside, the said court may in its discretion as often as may be necessary direct another inquisition to be taken in the manner above described; *and provided also*, that it shall not be lawful without the consent of the owner or owners to condemn any line for the construction of said railway, which shall pass through the buildings, yard, gardens, lawns or orchards of any person or persons.

Proviso.

Construction of railway after tendering payment for lands.

SEC. 8. *And be it enacted*, That upon the payment or tender of payment to the owner or owners of land so condemned of the amount of damages that may have been assessed by such inquisition after the same shall have been confirmed by the said courts, the said company shall be at liberty to take possession of said land, and to construct thereon upon such grade as they may deem expe-